

TWENTY-SIXTH DAY
(Wednesday, March 6, 1991)

The Senate met at 2:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend David Harris, Metropolitan African Methodist Episcopal Church, Austin, offered the invocation as follows:

Almighty God, Father of all mercies, and the creator and ruler of the universe, we give Thee most humble and hearty thanks for all of Thy goodness and loving kindness to us and to all human beings everywhere. We thank Thee for the bountiful goodness bestowed upon this nation of the United States of America, to this great State of Texas and to this auspicious "House of the Senate."

We have been blessed to meet in this hour to call on Thee, not in war but in peace. We beseech Thee to purify our minds from all vain, worldly and sinful thoughts, that we may draw nigh to Thee with reverence and perfect love. We seek Thy presence in this hour that our spirits may be purged by Thy forgiveness, our minds enlightened by Thy truth and our lives empowered in the determination to do Thy will.

God our Father, we pray that You will grant unto this august body of State Senators and their staffs the wisdom of understanding and the affection of Thy love during all of their deliberations. Bestow upon these honorable persons, who have been selected by the citizens of this great State to lead us through channels of joy and sorrow, riches and poverty, success and failure, smiles and tears, a great responsiveness to duty, a swift compassion with suffering and an utter loyalty to Thy will. Especially, O God, do we pray for their families and relatives that they may absorb the awesome responsibilities of their loved ones.

Most gracious preserver of all mankind, sanctify our love of country that our boasting may be turned into humility, and our pride into a ministry to people everywhere. Help us to keep this nation a "land of the free and the home of the brave."

Deliver us from dishonesty and civic corruption, from all vainglory and selfish luxury, from all cruelty and the spirit of violence. Deliver and save us and our children, and our children's children, in the land which Thou has blessed.

May Thy will be done, we pray from the depths of our hearts. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 224

On motion of Senator Truan and by unanimous consent, Senator Parker will be shown as Co-author of S.B. 224.

CO-AUTHORS OF SENATE BILL 300

On motion of Senator Brooks and by unanimous consent, Senators Dickson, Lucio, Leedom, Tejeda, Moncrief, Barrientos and Truan will be shown as Co-authors of S.B. 300.

CO-AUTHOR OF SENATE BILL 426

On motion of Senator Montford and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 426.

CO-AUTHOR OF SENATE BILL 557

On motion of Senator Montford and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 557.

CO-AUTHOR OF SENATE BILL 699

On motion of Senator Armbrister and by unanimous consent, Senator Moncrief will be shown as Co-author of S.B. 699.

CO-AUTHOR OF SENATE BILL 732

On motion of Senator Zaffirini and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 732.

MESSAGE FROM THE HOUSE

House Chamber
March 6, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 19, Requesting the State Board of Insurance to develop a standardized Texas Medicare supplemental insurance policy.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 54

REPORTS OF STANDING COMMITTEES

Senator Lyon submitted the following report for the Committee on Criminal Justice:

S.B. 416
S.B. 422
S.B. 423
C.S.S.B. 435
C.S.S.B. 64
C.S.S.C.R. 26

Senator Haley submitted the following report for the Committee on Administration:

S.R. 260

Senator Brooks submitted the following report for the Committee on Health and Human Services:

S.B. 377
C.S.S.B. 567
C.S.S.B. 327

Senator Glasgow submitted the following report for the Committee on State Affairs:

S.B. 189
S.B. 318
S.B. 76
S.C.R. 31

Senator Barrientos submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with the recommendation that they be confirmed.

To be Members of the TEXAS BOARD OF HEALTH: Dr. Ramiro R. Casso, Hidalgo County; William A. Scott, Harris County; Ms. Ruth F. Stewart, Bexar County.

To be a Member of the TEXAS BOARD OF HUMAN SERVICES: Robert Geyer, El Paso County.

To be Members of the AGRICULTURAL RESOURCES PROTECTION AUTHORITY: W. Thomas Beard III, Brewster County; Mrs. Inez Suderman, Hidalgo County.

To be a Member of the BOARD OF TRUSTEES OF THE TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM: Bill W. Wallis, Smith County.

CAPITOL PHYSICIAN

Senator Barrientos was recognized and presented Dr. Kenneth Hudspeth of Wimberley.

Dr. Hudspeth, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

(Senator Glasgow in Chair)

SENATE RESOLUTION 303

Senator Truan offered the following resolution:

S.R. 303, Recognizing the 100th anniversary of the Alice Independent School District.

The resolution was read and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Leedom was recognized and introduced a delegation from the Dallas Chamber of Commerce.

The Senate welcomed these guests.

(President in Chair)

SENATE CONCURRENT RESOLUTION 27

Senator Ratliff offered the following resolution:

S.C.R. 27, Proclaiming March 5 and 6, 1991, to be "Marshall Days" in Texas.

The resolution was read.

GUESTS PRESENTED

Upon recognition, Senator Ratliff introduced a delegation from Marshall seated in the gallery.

The Senate welcomed these guests. An enrolled copy of **S.C.R. 27**, previously adopted by the Senate on February 4, 1991, was prepared for this occasion.

COMMITTEE SUBSTITUTE**SENATE BILL 398 ON SECOND READING**

The President laid before the Senate on its second reading and passage to engrossment **C.S.S.B. 398**. (The bill having been read second time and left pending with amendments offered on Tuesday, March 5, 1991)

C.S.S.B. 398, Relating to the statute of limitations for purposes of prosecutions of certain sexual offenses committed against children.

Question—Shall Floor Amendment No. 3, a substitute amendment for Floor Amendment No. 2, be adopted?

Senator Parker offered the following substitute amendment for Floor Amendment No. 3:

Floor Amendment No. 4

Amend Floor Amendment No. 3 to **C.S.S.B. 398** by substituting the following:

Art. 12.01. FELONIES.

(2) Two (2) years from the date of the 18th birthday of the victim of the offense, if the offense was indecency with a child under Section 21.11, except for 21.11(a) (2), Penal Code; sexual assault under Section 22.011(a) (2), Penal Code, or aggravated sexual assault under Section 22.021(a) (1) (B), Penal Code;

The substitute amendment was read.

On motion of Senator Tejeda, the substitute amendment for Floor Amendment No. 3 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Barrientos, Bivins, Brooks, Ellis, Green, Harris of Tarrant, Krier, Leedom, Lucio, Lyon, Moncrief, Ratliff, Rosson, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Brown, Carriker, Dickson, Glasgow, Haley, Henderson, Johnson, Montford, Parker, Sibley, Sims.

Absent: Harris of Dallas.

Question—Shall Floor Amendment No. 3 be adopted?

Senator Moncrief offered the following substitute amendment for Floor Amendment No. 3:

Floor Amendment No. 5

Amend Floor Amendment No. 3 to C.S.S.B. 398 by substituting the following:

Art. 12.01. FELONIES.

(2) 15 years from the date of the 18th birthday of the victim of the offense, if the offense was indecency with a child under Section 21.11, except for 21.11(a) (2), Penal Code; sexual assault under Section 22.011(a) (2), Penal Code, or aggravated sexual assault under Section 22.021(a) (1) (B), Penal Code;

The substitute amendment was read.

Senator Montford moved to table the substitute amendment for Floor Amendment No. 3.

The motion was lost by the following vote: Yeas 14, Nays 16.

Yeas: Armbrister, Bivins, Brown, Carriker, Glasgow, Haley, Harris of Tarrant, Henderson, Montford, Parker, Ratliff, Sibley, Sims, Truan.

Nays: Barrientos, Brooks, Dickson, Ellis, Green, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Rosson, Tejada, Turner, Whitmire, Zaffirini.

Absent: Harris of Dallas.

Question recurring on the adoption of Floor Amendment No. 5, the substitute amendment for Floor Amendment No. 3 was adopted by a viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 5.

Question recurring on the adoption of Floor Amendment No. 3 as substituted, the amendment as substituted was adopted by a viva voce vote.

Question recurring on adoption of Floor Amendment No. 2 as substituted, the amendment as substituted was adopted by a viva voce vote.

On motion of Senator Tejada and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 398 ON THIRD READING**

Senator Tejada moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 398 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Glasgow.

Absent: Harris of Dallas.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2.

Yeas: Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Green, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Glasgow.

Absent: Harris of Dallas.

GUEST PRESENTED

Senator Brooks was recognized and introduced The Honorable Chuck Wilson, Galveston County Tax Assessor-Collector.

The Senate welcomed Mr. Wilson.

GUESTS PRESENTED

Senator Carriker was recognized and introduced a delegation from Gainesville seated in the gallery.

The Senate welcomed these guests.

SENATE BILL 136 ON SECOND READING

Senator Green moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that **S.B. 136** be taken up for consideration at this time:

S.B. 136, Relating to the authority of a court to order the turnover of wages for personal services.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Dallas.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 136 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 136** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Dallas.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE RESOLUTION 299

Senator Haley offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pleasure in recognizing Consul General Carl Ernest Rufelds, Canada's senior diplomat in the six-state southwest region of Louisiana, Arkansas, Kansas, Oklahoma, New Mexico, and Texas; and

WHEREAS, Born in Winnipeg, Manitoba, Mr. Rufelds and his wife, Helen, have two children, Kurt and Carla; and

WHEREAS, Mr. Rufelds received a bachelor of science degree in mechanical engineering from the University of Manitoba and has served for 28 years in Canada's Foreign Service; and

WHEREAS, A respected and talented diplomat, Mr. Rufelds has served abroad in Beirut, Milan, and Bangkok; positions he has held include Director of Trade to Asia and Pacific, Minister-Counsellor in Peking, Director of United States Export Marketing Division, Ottawa, and Head of Mission in Milan; and

WHEREAS, A distinguished and accomplished statesman, Mr. Rufelds has been highly successful in strengthening the cultural ties between Canada and the southwest area; and

WHEREAS, An exceptional leader with remarkable skills, Mr. Rufelds deserves recognition for his many achievements in diplomacy and international relations; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby express appreciation to Consul General Carl Ernest Rufelds for his superb accomplishments; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mr. Rufelds as an expression of high regard from the Texas Senate.

The resolution was read.

SENATE RESOLUTION 300

Senator Haley offered the following resolution:

WHEREAS, The Senate of the State of Texas proudly recognizes John R. Hammill, Canadian Consul for the six-state area of Texas, Louisiana, Arkansas, Kansas, Oklahoma, and New Mexico; and

WHEREAS, Mr. Hammill arrived in Dallas in August, 1990, and as Canadian Consul, he focuses on the political and economic relations between Canada and the southwestern area of the United States; and

WHEREAS, Born in Hamilton, Ontario, John Hammill and his wife, Naoko, have two children, Anne and Marc; he received his bachelor of arts degree and master of arts degree in history at McMaster University; and

WHEREAS, Talented and accomplished, Mr. Hammill has been with the Canadian Foreign Service for 24 years, serving in a variety of prestigious positions; and

WHEREAS, Prior to moving to Dallas, Mr. Hammill spent eight years working in the area of "high tech" exports promotion and then serving as Director for Foreign Investment and Technology Transfer out of the Toronto office of Industry, Science and Technology Canada; and

WHEREAS, A prominent and experienced public servant, Mr. Hammill was formerly at the Canadian Embassy in Tokyo, Head of National Security, Ottawa, Counsellor and Deputy Chief of Mission at the Canadian Embassy in Pakistan and served in numerous other positions relating to international affairs; and

WHEREAS, A highly skilled diplomat, Mr. Hammill has exhibited wisdom and expertise in strengthening the political and economic relations between Canada and the southwestern area; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby commend John Hammill for his many splendid accomplishments; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mr. Hammill as an expression of esteem from the Texas Senate.

The resolution was read.

SENATE RESOLUTION 301

Senator Haley offered the following resolution:

WHEREAS, The Senate of the State of Texas proudly welcomes Canadian Ambassador Derek Burney to the State of Texas and the City of Austin; and

WHEREAS, Born in Fort William, Ontario, Mr. Burney is married to Joan Peden and has four sons; he attended Queen's University in Kingston and received a bachelor of arts degree with honors and a master of arts degree in political science; and

WHEREAS, Highly accomplished and an outstanding leader, Mr. Burney became Canada's 15th Ambassador to the United States in January, 1989, and has been designated as the Prime Minister's personal representative for the Economic Summit scheduled for July, 1991, in London; and

WHEREAS, Formerly a Counsellor for Political Affairs at the Embassy in Tokyo, Ambassador to the Republic of Korea, and Assistant Under Secretary of State for External Affairs, Mr. Burney has exhibited unusual talent and versatility throughout his many years in public service; and

WHEREAS, An experienced and gifted statesman, Mr. Burney was involved in the negotiations of the Canada-United States Free Trade Agreement while serving as Chief of Staff to the Prime Minister in 1987 and 1988; and

WHEREAS, A distinguished and exemplary gentleman, Mr. Burney deserves recognition for his outstanding achievements and diplomatic expertise; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby commend Ambassador Derek Burney for his many accomplishments and extend warmest greetings to him as an honorable guest of the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mr. Burney as an expression of high regard from the Texas Senate.

The resolution was read.

GUESTS PRESENTED

Upon recognition, Senator Haley introduced the following distinguished guests:

Consul General Carl Ernest Rufelds, Senior Diplomat of Canada; John R. Hammill, Canadian Consul; Canadian Ambassador Derek Burney; John Hannah, Jr., Secretary of State, and Her Excellency The Honorable Ann W. Richards, Governor of Texas.

The Senate extended a very warm welcome to these guests.

Senator Haley then escorted these guests to the President's Rostrum.

An enrolled copy of S.R. 299 was presented to Consul General Carl Ernest Rufelds, an enrolled copy of S.R. 300 was presented to Canadian Consul John R. Hammill and an enrolled copy of S.R. 301 was presented to Canadian Ambassador Derek Burney. These resolutions were previously adopted by the Senate on March 5, 1991.

SENATE BILL 264 ON SECOND READING

Senator Zaffirini moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that S.B. 264 be taken up for consideration at this time:

S.B. 264, Relating to the 49th Judicial District.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Dallas.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 264 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 264** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Dallas.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Glasgow in Chair)

SENATE BILL 300 ON SECOND READING

Senator Brooks moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that **S.B. 300** be taken up for consideration at this time:

S.B. 300, Relating to salary payments to state employees who are called to active military duty.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Dallas.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Amend **S.B. 300** lines 61 and 62 on page 1 of the printed bill to read as follows:

"(2) only for state pay periods that began on or after September 1, 1990."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

MEMORIAL RESOLUTION

S.R. 304 - By Barrientos: In memory of Pericles Criss of Austin.

CONGRATULATORY RESOLUTIONS

S.C.R. 58 - By Whitmire: Extending congratulations to Mr. and Mrs. Harold Dutton, Sr., of Houston on the occasion of their 50th wedding anniversary.

S.C.R. 59 - By Leedom: Extending congratulations to Susan and Johnny Horton on the adoption of their daughter, Rebecca Margaret Horton.

S.R. 302 - By Moncrief: Paying tribute to Captain Ed Stauffer on his retirement after several years service as chaplain of the Fort Worth Fire Department.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 3:36 p.m. adjourned until 9:00 a.m. tomorrow.

**In Memory
of
United States Army Specialist
Tommy Don Butler**

Senator Bivins offered the following resolution:

(Senate Resolution 282)

WHEREAS, The tragic death of United States Army Specialist Tommy Don Butler of Amarillo, Texas, is greatly mourned by his family, his friends, and his community; and

WHEREAS, This 22-year-old military cannon crewmember was stationed with the United States Army B-Battery, Third Battalion, 18th Field Artillery of Fort Sill, Oklahoma, when he was called to serve in the Persian Gulf; and

WHEREAS, Specialist Butler joined the Army in 1988 and was known as a loyal friend and exemplary soldier; and

WHEREAS, The son of Kathleen Butler and Captain Gary Butler, Tommy was instilled with a deep love of country at an early age; and

WHEREAS, He fulfilled a lifelong dream when he joined the United States Army where he served with distinction as a member of the Third Battalion; and

WHEREAS, He is remembered with great affection and esteem by all who knew him; an avid sports fan, he displayed enthusiasm and excellence in all his endeavors; and

WHEREAS, The valiant soldier never wavered in his allegiance and fidelity to the United States, and he leaves behind a cherished legacy of valor and devotion; and

WHEREAS, Tommy's exemplary life is a tribute to his gallantry and courage; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby honor the life of Specialist Tommy Don Butler and extend heartfelt condolences to his parents, Captain and Mrs. Gary Butler; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Captain and Mrs. Butler as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of United States Army Specialist Tommy Don Butler.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Bivins and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

**In Memory
of
Carlos Ray Warren**

Senator Barrientos offered the following resolution:

(Senate Resolution 305)

WHEREAS, The Senate of the State of Texas joins with the entire state in mourning the tragic death of Department of Public Safety Trooper Carlos Ray Warren who was slain in the line of duty on March 5, 1991; and

WHEREAS, Born in El Paso, Texas, on November 4, 1960, Carlos graduated from Ysleta High School in 1978; and

WHEREAS, He joined the United States Army after his graduation from high school and honorably served his country as a military police officer; and

WHEREAS, On completion of his military service, this accomplished and dedicated young man began training as a Highway Patrol recruit and was commissioned as a Trooper on October 10, 1986; and

WHEREAS, In a career marked by bravery and courage, Carlos received five commendations for his notable achievements as a Department of Public Safety Trooper; and

WHEREAS, Respected and well liked by his fellow officers, Trooper Warren set a high standard of professionalism, inspiring others by his loyalty, dependability, and exemplary conduct; his willingness to risk his own life to provide protection for others was in keeping with his belief in the importance of a fair and effective law enforcement system; and

WHEREAS, This exceptional young officer was a man of great valor whose strong sense of duty reflected a deep commitment to the welfare of others; though his life has been cut tragically short, his memory will live on in the hearts of the many people whose lives were touched by this remarkable man; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby pay tribute to the courageous life of Trooper Carlos Ray Warren and extend heartfelt condolences to the members of his family: his daughters, Shannon and Monica; his parents, Juanita Warren and Ray Warren; and his two brothers; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the family of Trooper Warren as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Carlos Ray Warren.

BARRIENTOS
ROSSON

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Barrientos and by unanimous consent, the resolution was adopted by a rising vote of the Senate.